

## **MINUTES**

### **North Dakota State Water Commission Telephone Conference Call Meeting Bismarck, North Dakota**

**May 7, 1997**

The North Dakota State Water Commission held a telephone conference call meeting in the Governor's conference room, State Capitol, Bismarck, North Dakota, on May 7, 1997. Chairman, Edward T. Schafer, called the meeting to order at 3:00 PM, and requested State Engineer, and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

#### **MEMBERS PRESENT:**

Governor Edward T. Schafer, Chairman  
Roger Johnson, Commissioner, Department of Agriculture, Bismarck  
Judith DeWitz, Member from Tappen  
Elmer Hillesland, Member from Grand Forks  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page  
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **MEMBERS ABSENT:**

Mike Ames, Member from Williston  
Florenz Bjornson, Member from West Fargo

#### **OTHERS PRESENT:**

State Water Commission Staff  
Julie Krenz, Assistant Attorney General, Bismarck  
Don Wyszynski, Dain Bosworth, Inc., Minneapolis, MN (by phone)  
Katherine C. Kardell, Evensen Dodge, Inc., Minneapolis, MN (by phone)  
Maurice E. Cook, Beauclair & Cook, Bismarck  
Scott Wegner, Beauclair & Cook, Bismarck  
Jerold R. Backes, Bartlett West/Boyle Engineering, Bismarck  
Joe Bichler, Bartlett West/Boyle Engineering, Bismarck  
Dale Wetzal, Associated Press, Bismarck  
Don Davis, Bismarck Tribune, Bismarck

The attendance register is on file with the official minutes.

The meeting was recorded to assist in compilation of the minutes.

## **APPROVAL OF AGENDA**

the agenda approved and requested Secretary Sprynczynatyk to present the agenda.

There being no additional items for the agenda, the Chairman declared

## **SOUTHWEST PIPELINE PROJECT - APPROVAL OF BOND ISSUANCE AUTHORIZATION RESOLUTION (SWC Project Nos. 1736 and 1885)**

program, have the Series A bonds rated, and prepare the final bond documents for the Commission's consideration.

At its meeting on March 26, 1997, the State Water Commission passed a motion to proceed with the North Dakota State Water Commission Water Development Revenue Bonds

On April 10, 1997, a meeting was held with the bond rating analysts from Standard & Poor's Rating Group at their offices in New York. Secretary Sprynczynatyk reported the bond rating subsequently given was not as high as was hoped. In order to improve the rating, bond insurance was considered. The cost of this step was found to be \$72,000 for the premium plus \$10,000 in additional rating fees. The reduction in the interest rate due to the insurance, however, reduces the annual debt service by about \$15,000, for a total of approximately \$450,000 over the life of the bond. It was determined this option was cost effective and could be implemented without impacting the schedule.

On May 5, 1997, the Series A bonds were priced by the Underwriter to determine the actual interest rate terms, and the debt service schedule. Secretary Sprynczynatyk reported the final net interest rate for the Series A bonds is 5.85 percent for a 30-year period.

The following final Series A bond documents for the North Dakota State Water Commission Water Development Revenue Bonds program for the Southwest Pipeline Project were provided for the Commission's consideration. Secretary Sprynczynatyk explained the final documents and the program procedure for satisfying the program requirements:

- **Bond Issuance Authorization Resolution, which sets the specifications for the program procedure**
- **General Bond Resolution, which sets the specifications of the bonding program**
- **1997 Series A Resolution, which sets the specifications of the Series A bonds**
- **Preliminary Official Statement for the Series A bonds**

- **Bond Purchase Contract, which is the contract between the State Water Commission and the Underwriter specifying the Underwriter's purchase of the bonds**

It was the recommendation of the State Engineer that the State Water Commission authorize the execution of the Bond Issuance Authorization Resolution, and the documents referenced above.

*It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission authorize the execution of the Bond Issuance Authorization Resolution, and approve the General Bond Resolution, the 1997 Series A Resolution, the Preliminary Official Statement, and the Bond Purchase Contract. SEE APPENDIX "A".*

*Commissioners DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**SOUTHWEST PIPELINE PROJECT -  
AWARD OF CONTRACT 2-4B TO  
LARRY'S, INC., GILLETTE, WY; AND  
AWARD OF CONTRACT 5-5 TO  
ADVANCE TANK AND  
CONSTRUCTION, WELLINGTON, CO  
(SWC Project No. 1736)**

On March 19, 1997, bids were opened for Southwest Pipeline Project Contract 2-4B, (transmission line to Hettinger and Reeder), and Contract 5-5 (Bucyrus reservoir).

The results of the bids were presented at the March 26, 1997 State Water

Commission meeting. Secretary Sprynczynatyk explained since funding was not in place at that time for the contracts, a formal award of the bids could not be made. The low bidder for Contract 2-4B was Larry's, Inc., Gillette, Wyoming. The low bidder for Contract 5-5 was Advance Tank and Construction, Wellington, CO. The Commission passed a motion at its March 26, 1997 meeting to notify the low bidder of each contract of the Commission's intent to award the bid.

Secretary Sprynczynatyk explained that the previous action taken by the Commission at this meeting approving the execution of the Bond Issuance Authorization Resolution allows for funding for the contracts to be in place and the award of bids is appropriate.

It was the recommendation of the State Engineer that the State Water Commission approve the award of Contract 2-4B to Larry, Inc., Gillette, Wyoming, and Contract 5-5 to Advance Tank and Construction, Wellington, Colorado.

*It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve the award of Southwest Pipeline Project bids for the contracts as follows:*

***Southwest Pipeline Project Contract 2-4B***

***Larry's, Inc. - Gillette, Wyoming***

***Southwest Pipeline Project Contract 5-5***

***Advance Tank and Construction -  
Wellington, Colorado***

***Commissioners DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.***

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF TRANSFER  
AGREEMENT AMENDMENT NO. 2  
RELATIVE TO FORWARDING  
CAPITAL REPAYMENT REVENUE  
DIRECTLY TO TRUSTEE FOR  
DEPOSIT IN REVENUE ACCOUNT  
(SWC Project Nos. 1736 and 1885)**

The Southwest Water Authority and the State Water Commission have a transfer agreement for the management, operations, and maintenance of the Southwest Pipeline Project. The existing terms of the agreement specifies that the Authority will forward the amount it collects from users for capital repayment to the State Water Commission.

Secretary Sprynczynatyk explained that the bonding program requires that the trustee manage the capital repayment funds and, therefore, he said it would be preferable that the Southwest Water Authority forward the amount of capital repayment pledged for debt service directly to the trustee for deposit in the revenue account.

It was the recommendation of the State Engineer that the State Water Commission amend the following sections of the transfer agreement for the management, operations and maintenance of the Southwest Pipeline Project:

- **Section VI.B.1**

This report should accompany the monthly capital repayment amount. This sentence is amended to read:

**This report should be sent to the Commission by the 25th day of the month.**

- **Section VI.I**

The Authority shall pay to the State Water Commission a water rate for capital costs of the project. This section of the agreement is amended to read:

**Payment of the water rate for capital costs of the Project to others by the Authority upon direction of the Commission is regarded as payment of that rate to the Commission for the purposes of this section.** .... (remainder of this section remains unchanged)

*It was moved by Commissioner Swenson and seconded by Commissioner DeWitz that the State Water Commission approve Amendment No. 2 to the Agreement for the Transfer of Management, Operations, and Maintenance Responsibilities for the Southwest Pipeline Project, North Dakota, from the North Dakota State Water Commission to the Southwest Water Authority as recommended by the State Engineer. SEE APPENDIX "B".*

*Commissioners DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**SOUTHWEST PIPELINE PROJECT -  
USDA RURAL DEVELOPMENT  
FUNDING ASSISTANCE;  
APPROVAL OF LOAN RESOLUTION,  
RESERVE FUND RESOLUTION, AND  
GRANT RESOLUTION  
(SWC Project Nos. 1736 and 1885)**

Secretary Sprynczynatyk explained the North Dakota State Water Commission Water Development Revenue Bonds program through the U.S. Department of Agriculture - Rural Development to provide funds for the continued construction of the Southwest Pipeline Project. Draft

resolutions for compliance with the Rural Development program requirements for the 1997 Series B bonds for \$3.4 million were presented for the Commission's consideration. He said it is anticipated that all of the Water Development Revenue Bonds program requirements for the Series B bonds can be satisfied in July, 1997.

It was the recommendation of the State Engineer that the State Water Commission approve the execution of the Loan Resolution, the Reserve Fund Resolution, and the Grant Resolution to comply with the Rural Development program requirements for the issuance of the 1997 Series B bonds.

*It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission approve the execution of the Loan Resolution, the Reserve Fund Resolution, and the Grant Resolution of the North Dakota State Water Commission Water Development Revenue Bonds program for the 1997 Series B bonds for funding for the continued construction of the Southwest Pipeline Project. SEE APPENDIX "C".*

*Commissioners DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

#### **DEVILS LAKE**

Secretary Sprynczynatyk reported the

#### **HYDROLOGIC UPDATE**

current level of Devils Lake is at

#### **(SWC Project No. 416)**

elevation 1440.2. The current forecast is for the lake to rise approximately 6

feet this year, thus, it is expected by late June or early July the lake could be at or near elevation 1444.0. He said if Devils Lake reaches elevation 1446.6, it will spill into Stump Lake. The lake is rising faster than expected because of unprecedented spring runoff. Most of the Devils Lake area roads will be under water this summer, and many of the roads are already closed.

Secretary Sprynczynatyk briefed the Commission members on the efforts of the three-part solution to control record Devils Lake flooding which include water storage, the construction of an outlet to allow the water to flow out of the lake into the Sheyenne River and eventually into the Red River, and to provide for infrastructure for protection around the lake.

#### **DEVILS LAKE AVAILABLE**

Secretary Sprynczynatyk provided a

#### **STORAGE ACREAGE PROGRAM (ASAP) - APPROVAL OF ALLOCATION OF \$200,000 FOR ADDITIONAL WATER STORAGE IN 1997 (SWC Project No. 1882)**

briefing of the Devils Lake Available Storage Acreage Program (ASAP) and the program projections for 1997.

Approximately 50 new ASAP applications have been submitted in 1997, of which 35 may be feasible. The

feasible applications represents sites that could store about 4,000 acre-feet of water at a cost of approximately \$240,000.



Secretary Sprynczynatyk explained that the uncommitted balance from previous allocations, totalling \$1,150,000, is \$40,000. He said approximately \$200,000 will be needed to capture the storage offered with the new applications. If the Commission approves funding for the new sites, the total water storage in the upper Devils Lake basin through ASAP is approximately 15,500 acre-feet of water.

It was the recommendation of the State Engineer that the State Water Commission approve the allocation of \$200,000 to ASAP for additional water storage in the upper Devils Lake basin.

Commissioner Swenson said although he agreed with the State Engineer's recommendation, he was concerned whether or not the money being spent for storage easements is financially worth the approximate three-inch reduction in the level of Devils Lake.

*It was moved by Commissioner Hillesland and seconded by Commissioner Johnson that the State Water Commission allocate \$200,000 to the Available Storage Acreage Program (ASAP) for additional water storage in the upper Devils Lake basin.*

*Commissioners DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

There being no further business to come before the State Water Commission, Governor Schafer adjourned the meeting at 3:40 PM.

/S/ Edward T. Schafer  
Edward T. Schafer  
Governor-Chairman

SEAL

/S/ David A. Sprynczynatyk  
David A. Sprynczynatyk  
State Engineer, and  
Chief Engineer-Secretary

